

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Eddie Demond Spiller**
Docket No. **281717**
L.C. No. **92-046525-FC**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). Regardless of claiming that the motion was a MCR 6.429 motion, the motion was a motion for relief from judgment. See MCR 6.501. The fact that an issue could be raised does not give the defendant the authority to file an application for leave to appeal that violates MCR 6.502(G)(1). The Court would note that the trial court was correct in deciding that MCR 6.428 was not applicable. There was no allegation from defendant that he could not read or follow instructions. Also defendant makes no showing that MCR 6.428 is retroactive.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 31 2008

Date

Sandra Schultz Mengel
Chief Clerk